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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,940	08/27/2003	Philippe LeBras	D-7874	5932

7590 06/26/2006  
Law Department  
MeadWestvaco Corporation  
4850D North Church Lane  
Smyrna, GA 30080

EXAMINER
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PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/648,940

Applicant(s)

LEBRAS, PHILIPPE

Examiner

Gregory Pickett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-19,21-28 and 30-36 is/are rejected.
- 7) ☒ Claim(s) 2,3,20 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Office Action acknowledges the applicant's amendment filed 23 February 2006. Claims 1-36 are pending in the application. Claims 35 and 36 are new to the application.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Priority***

3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Great Britain on 2 March 2001. It is noted, however, that applicant has not filed a certified copy of the 0105223.2 application as required by 35 U.S.C. 119(b). Accordingly, until priority has been perfected, the effective filing date of the application is **4 March 2002**.

### ***Claim Rejections - 35 USC § 102***

4. Claims 1, 4-10, 14-19, 21, 22, 24, 26-28, 30, 31, 33, 35, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Calvert (US 3,861,530; provided by applicant).

Claim 1: Calvert discloses a package with a wraparound carton (Figure 6) comprising a top wall **4A**, sidewall **1A**, base wall **9A**, and beam structure **6A/22A/23A** having a first end (portion near panel **9A**) and second end (portion near panel **4A**),

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hingedly connected to base **9A** with at least one medial fold line **25A** and at least one angled fold line **38**. Calvert discloses a plurality of articles **C1, C2, C3, & C4** arranged to be wrapped as shown in Figure 4 with the beam structure **6A/22A/23A** residing in the recess between articles **C3 & C4**. Although Calvert shows the package as being vertically positioned, it is fully capable of resting on panel **9A**, in which case panel **9A** could be considered a base.

Claim 4: Calvert discloses beam structure **6A/22A/23A** with its second end (portion near panel **4A**) hinged to top wall **4A**.

Claims 5, 6, and 14: Calvert discloses a pair of support panels **6A & 23A** hingedly connected along medial fold line **25A** and arranged as claimed.

Claims 7, 10, and 15: Calvert discloses a pair of support panels **22A & 23A**, medial panel **6A**, and bracket panels **30 & 36** arranged as claimed.

Claims 8 and 9: Calvert discloses triangular-shaped bracket panel **36**.

Claims 16 and 17: Calvert discloses a base wall comprised of first base wall **2A** connected to the sidewall **1A**, and second base wall **9A** connected to the beam structure **6A/22A/23A**.

Claim 18: In interpreting the claim broadly, it does not appear that the end panels have to be the actual terminus of the blank, but may be merely located at opposite ends of the blank. As such, Calvert discloses a blank (Figure 6) with a plurality of wall panels **2A, 1A, 4A, 9A, & 10A**, hingedly connected in series and including a pair of base panels **2A & 9A** at opposite ends of the blank, and wherein base wall panel **9A** is connected to an adjacent wall panel **4A** through a beam forming portion **6A/22A/23A**,

said beam forming portion comprising at least one medial fold line **25A**, at least one angled fold line **38**, and bracket panel **36**.

Claims 19 and 21: Calvert discloses the second end of the beam forming portion **6A/22A/23A** hingedly connected to adjacent wall panel **4A**, which is considered a top wall, and side wall panel **1A** hingedly connected to base wall **2A**.

Claim 35: Calvert discloses bracket panels **30, 33, 36 & 39** at opposite ends of the beam, and a pair of support panels **22A & 23A**.

Claim 22: Calvert discloses medial panel **6A**.

Claim 24: Calvert discloses bracket panel **36** is triangular in shape.

Claim 26: Calvert discloses the claimed method (see Figure 4 and Col. 2, lines 11-19).

Claims 27 and 28: Calvert discloses a plurality of wall panels **2A, 1A, 4A, 9A, & 10A**, hingedly connected in series and including a pair of overlapping base wall panels **2A & 9A** at opposite ends of the blank, and wherein base wall panel **9A** is connected to an adjacent wall panel **4A** through a beam forming portion **6A/22A/23A**, said beam forming portion comprising at least one medial fold line **25A**, at least one angled fold line **38**, bracket panel **36**, and the second end of the beam forming portion **6A/22A/23A** hingedly connected to adjacent wall panel **4A** along a first fold line.

Claim 30: Calvert discloses sidewall panel **1A** and top wall panel **4A** arranged as claimed.

Claim 36: Calvert discloses bracket panels **30, 33, 36 & 39** at opposite ends of the beam, and a pair of support panels **22A & 23A**.

Claim 31: Calvert discloses medial panel **6A**.

Claim 33: Calvert discloses bracket panel **36** is triangular in shape.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-13, 23, 25, 32, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calvert in view of MEAD CORP. (FR 2423399; provided by applicant).

Calvert discloses the claimed invention except for the trapezoidal bracket panels and gussets.

MEAD CORP. discloses an equivalent beam structure (see Figure 1) for separating articles comprising medial fold lines **21 & 22**, angle fold lines **25, 29, 31 & 35**, trapezoidal bracket panels (areas bound by **18/25/31** and **29/35/36**), and gusset panels **23, 27, 30, & 33**. MEAD CORP. represents evidence that the two beam structures were art-recognized equivalent structures for separating articles. Therefore, because these two separating beams were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the beam of MEAD CORP. for the beam of Calvert. An express suggestion to

substitute one equivalent component or process for another is not necessary to render such substitution obvious. *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982).

### ***Allowable Subject Matter***

6. Claims 2, 3, 20, and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-36 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Greg Pickett  
Examiner  
19 June 2006

  
Mickey Ye  
Supervisory Patent Examiner  
Group 3700